

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments revise Chapter 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility. Specifically, these amendments remove provisions regarding nonregistered child care providers from Chapter 170 and incorporate the provisions in new Chapter 120, “Child Care Homes.” (See **ARC 2648C** herein.) In addition, these amendments revise in-home provider language to mirror the new CCDBG rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2551C** on May 25, 2016. The Department received comments from two respondents during the public comment period. The comments and Department responses are as follows:

**Comment 1:** A respondent requested that language be included that allows changes to the five-year requirement for health and safety training if information changes. Modifications will allow DHS to require the training more often or that training be renewed if significant changes to the content occur.

**Department response 1:** The Department agrees with the respondent and has added a new paragraph to the end of 170.4(3)“e”(1)“1” to allow for health and safety training to be taken more frequently if content areas change significantly. The new paragraph reads as follows:

“Minimum health and safety training may be required prior to the five-year period if content has significant changes which warrant that the training be renewed.”

**Comment 2:** A respondent requested that training in the use of an automated external defibrillator (AED) be included in the first-aid and cardiopulmonary resuscitation (CPR) training requirements.

**Department response 2:** At this time, it is not known if AED training is always provided during CPR courses. Additionally, if the Department required AED training, it would be reasonable to assume that the Department would need to require an AED on the child care premises, which would have a fiscal impact to child care providers. The National Resource Center on Health and Safety in Child Care and Early Education’s document “Caring for Our Children” was also reviewed. The suggestion in that document is that child care facilities should consider having an AED on the premises for potential use with adults. It further indicates that the use of AEDs with children would be rare. For these reasons, the Department did not modify these amendments based on the respondent’s comments.

**Technical changes.** Rule language in 170.4(3)“e”(1)“3” for first aid and CPR has been modified to include the American Safety and Health Institute as an approved training organization and to remove the reference to Emergency Medical Planning, an entity which has merged into the American Safety and Health Institute.

In addition, paragraph 170.4(3)“g” has been modified to strike provisions relating specifically to nonregistered child care homes since those homes are now covered in new Chapter 120, and the unamended text in subparagraph 170.4(7)“a”(1) has been updated to reflect a recently adopted amendment to the subparagraph (see **ARC 2555C**, IAB 6/8/16).

The Council on Human Services adopted these amendments on July 13, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective October 1, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 170.4(3) as follows:

**170.4(3) Method of provision.** Parents shall be allowed to exercise their choice for in-home care, except when the parent meets the need for service under subparagraph 170.2(2)“b”(3), as long as the conditions in paragraph 170.4(7)“d” are met. When the child meets the need for service under

170.2(2) “b”(3), parents shall be allowed to exercise their choice of licensed, registered, or nonregistered child care provider except when the department service worker determines it is not in the best interest of the child. The provider must meet one of the applicable requirements set forth below.

~~The provider must meet one of the applicable requirements set forth below.~~

a. to d. No change.

e. *In-home care.* The adult caretaker selected by the parent to provide care in the child’s own home shall be sent ~~the pamphlet Comm. 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers.~~ The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider’s understanding of and compliance with the conditions and requirements for nonregistered in-home care providers that include:

(1) ~~Minimum health and safety requirements;~~ Professional development. The provider shall complete:

1. Prior to provider agreement and every five years thereafter, minimum health and safety trainings, approved by the department, in the following content areas:

- Prevention and control of infectious disease, including immunizations.
- Prevention of sudden infant death syndrome and use of safe sleep practices.
- Administration of medication, consistent with standards for parental consent.
- Prevention of and response to emergencies due to food and allergic reactions.
- Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
- Prevention of shaken baby syndrome and abusive head trauma.
- Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
- Handling and storage of hazardous materials and appropriate disposal of biocontaminants.
- Precautions in transporting children.

Minimum health and safety training may be required prior to the five-year period if content has significant changes which warrant that the training be renewed.

2. Prior to provider agreement, two hours of Iowa’s training for mandatory reporting of child abuse.

3. Prior to provider agreement, first-aid and cardiopulmonary resuscitation (CPR) training meeting the following requirements:

• Training shall be provided by a nationally recognized training organization, such as the American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute or MEDIC First Aid or by an equivalent trainer using curriculum approved by the department.

• First-aid training shall include certification in infant and child first aid.

• The provider shall maintain a valid certificate indicating the date of first-aid training and the expiration date.

• The provider shall maintain a valid certificate indicating the date of CPR training and the expiration date.

(2) Limits on the number of children for whom care may be provided;

(3) Unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order; and

(4) Conditions that warrant nonpayment.

f. *Nonregistered family child care home.* ~~The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95 or Comm. 95(S), Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or 470-2890(S), Payment Application for Nonregistered Providers. The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment~~

may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include: A nonregistered child care home shall meet the requirements set forth in 441—Chapter 120.

- ~~(1) Minimum health and safety requirements;~~
- ~~(2) Limits on the number of children for whom care may be provided;~~
- ~~(3) Unlimited parental access to the child or children during hours when care is provided, unless prohibited by court order; and~~
- ~~(4) Conditions that warrant nonpayment.~~

*g. Iowa records checks for ~~nonregistered child care homes and in-home care~~.* If a ~~nonregistered child care provider or~~ a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete and submit to the department Form 470-5143, Iowa Department of Human Services Record Check Authorization Form, ~~for the provider, for anyone having access to a child when the child is alone, and for anyone 14 years of age or older living in the home.~~ The department shall use this form to conduct Iowa criminal history record and child abuse record checks.

(1) The purpose of these checks is to determine whether the person has committed a transgression that prohibits or limits the person's involvement with child care.

(2) The department may also conduct criminal and child abuse record checks in other states and may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in Iowa or in other states.

(3) Records checks shall be repeated ~~for each person subject to the check~~ every two years and when the department or provider becomes aware of any new transgressions ~~committed by that person.~~

*h. National criminal history record checks for ~~nonregistered child care homes and in-home care~~.* If a ~~nonregistered child care provider or~~ a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form DCI-45, Waiver Agreement, and Form FD-258, Federal Fingerprint Card, ~~for the provider, for anyone 18 years of age or older who is living in the home, or for anyone having access to a child when the child is alone.~~

(1) ~~The provider or other person~~ subject to this check shall submit any other forms required by the department of public safety to authorize the release of records.

(2) ~~The provider or other person~~ subject to this check is responsible for any costs associated with obtaining the fingerprints and for submitting the prints to the department.

(3) to (5) No change.

*i. No change.*

ITEM 2. Amend subparagraph **170.4(7)“a”(1)** as follows:

(1) “Child care center” shall mean those providers as defined in 170.4(3)“a.” “Registered child development home” shall mean those providers as defined in 170.4(3)“b.” “Nonregistered family child care home” shall mean those providers as defined in ~~170.4(3)“e.”~~ 441—Chapter 120.

[Filed 7/13/16, effective 10/1/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/16.